

**BOARD OF APPEALS CASE NO. 5265**

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**BEFORE THE**

**APPLICANT: Linda & Mark Seybold**

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**ZONING HEARING EXAMINER**

**REQUEST: Amend Condition No. 8 in Board of Appeals Case No. 4936 and variance to locate a sign within the road right-of-way; 3360 Level Road, Churchville**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 6/26/02 & 7/3/02**

**HEARING DATE: August 12, 2002**

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**Record: 6/28/02 & 7/5/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Linda and Mark Seybold, are requesting an amendment to Condition No. 8 in Board of Appeals Case No. 4936, to allow a sign to be placed on the parcel for the business use, and a variance, pursuant to Section 219-14B of the Harford County Code, to allow a sign within the right-of-way in an AG/Agricultural District.

The subject parcel is located at 3360 Level Road, Churchville, Maryland 21028 and is more particularly identified on Tax Map 36, Grid 4C, Parcel 143. The subject parcel is presently zoned AG/Agricultural and is entirely within the Second Election District. The entire parcel consists of 48.32± acres, of which, 2 acres is devoted to the motor vehicle repair shop allowed by special exception pursuant to Board of Appeals Case No. 4936.

The Applicants originally sought a special exception use on this parcel to operate a motor vehicle repair shop and commercial vehicle and equipment storage, pursuant to Section 267-53D(1). In an opinion dated September 30, 1999, the Hearing Examiner granted the special exception use subject to eight (8) conditions of approval. Condition No. 8 stated:

- “8. That signs are not permitted for the proposed use in the Agricultural District as a principal permitted use. If the Applicant wishes to use a sign, it will require Board of Appeals approval.”

The Hearing Examiner's decision in Case No. 4936 became final on August 11, 1999.

## **Case No. 5265– Linda & Mark Seybold**

The Applicant, Mark Seybold, appeared and testified that he has been operating a motor vehicle repair shop on the property since he was granted a special exception in 1999. Despite the conditions of approval of his special exception use, the Applicant erected a sign that is two-sided, 4 feet by 4 feet on each side and approximately 9 feet above the road surface to advertise his property. The sign is located within the road right-of-way. The witness testified that his business needs the sign in order to advertise the services offered. This sign, in fact, is the only form of advertising done by the business according to the witness. The witness indicated that the State Highway Administration wants the sign lowered to 6 feet and moved back behind the fence line out of the road right-of-way. The sign is presently in the right-of-way and, according to the witness, if the sign were both lowered and moved back behind the fence, nobody would be able to see the sign which would defeat the purpose.

Mr. Anthony McClune appeared and testified that the Department of Planning and Zoning partially supported the Applicants' request. In stating its conditional support of the Applicants' request, the Department stated:

"The use of the sign to help identify the location of the business is appropriate. However, the location and the height of the sign are not acceptable. The sign should be located outside of the road-right-of-way, as required by the State Highway Administration. Also, the height of the sign and size should be consistent with other signs permitted in the Agricultural District."

There are no persons who appeared in opposition to the subject request.

## **CONCLUSION:**

The Applicants, Linda and Mark Seybold, are requesting an amendment to Condition No. 8 in Board of Appeals Case No. 4936 to allow a sign to be placed on the parcel for the business use, and a variance pursuant to Section 219-14B of the Harford County Code, to allow a sign within the right-of-way in an AG/Agricultural District.

## **Case No. 5265– Linda & Mark Seybold**

**Section 219-14B provides:**

**“Prohibited signs.**

- A. The following signs are prohibited in all districts and shall be removed in accordance with § 219-10:**
  - (1) Signs containing statements, words or pictures of an obscene, indecent or immoral character that offend public morals or decency of the community.**
  - (2) Signs of a size, location, movement, content, coloration or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any permitted signs or which distract or obstruct the view of road or pedestrian traffic in any direction at a road intersection.**
  - (3) Unless authorized by the utility, signs posted on any building, fence, pole or other property owned, leased or controlled by a public utility.**
- B. Except as provided in § 219-7A, signs which are placed within the county or state right-of-way are prohibited and shall be removed immediately by the enforcement officer or the appropriate highway authority.**
- C. Freestanding signs advertising business uses shall not be permitted in planned residential development projects.”**

**Section 219-1 provides:**

**“Purpose. The purpose of this chapter is to regulate all exterior signs so as to protect property values, to protect the character of the various neighborhoods in the county, to preserve and enhance natural scenic beauty, to protect health, safety and morals and to promote the general welfare.”**

**Section 219-7(l) provides:**

**“Exemptions.**

**The following types of signs are exempt from all the provisions of this chapter, except for construction and safety regulations and the following standards:**

- I. Agricultural identification signs: agricultural identification signs not to exceed thirty-two (32) square feet in area and not to be located less than thirty-five (35) feet from the center line of the road or ten (10) feet from the road right-of-way, whichever is greater.”**

## **Case No. 5265– Linda & Mark Seybold**

The Hearing Examiner agrees with the Department of Planning and Zoning that it is appropriate for a business use permitted by special exception, to be allowed to erect a sign related to its business, provided that sign is consistent with other signs generally allowed in the Agricultural District. In a review of the Harford County Sign Code, Section 219-13 describes the signs permitted, their permitted height and size for particular districts. Additionally, Section 219-7(l) provides a specific exemption from the restrictions of the Sign Code for Agricultural signs but imposes height, size and setback conditions. The Hearing Examiner finds no reason that a sign erected on this parcel in conformance with these provisions would have any adverse impacts different than any other permitted sign in the Agricultural District.

However, the Sign Code of Harford County, the Department of Planning and Zoning, the State Highway Administration all require that the sign be setback outside of the right-of-way. The standard for a variance is set forth at Section 219-17 of the Harford County Code that provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

In the opinion of the Hearing Examiner, the purposes of these right-of-way restrictions would be impaired if the variance were allowed. Additionally, there was no testimony that any topographical conditions existed on this property that created the need for the variance. A large sign close to the road would be convenient for the Applicants’ business but are not created by any special or unique condition of the parcel different from any other parcels located along this particular right-of-way.

Therefore, for the reasons herein stated, the Hearing Examiner recommends denial of the Applicants’ request for a variance pursuant to Section 219-14(B) of the Harford County Sign Code to erect a sign within the public road right-of-way.

**Case No. 5265– Linda & Mark Seybold**

However, the Hearing Examiner recommends approval of the Applicants' first request to amend the conditions of Case No. 4936 and recommends that Condition No.8 of Board of Appeals Case No. 4936 be amended to provide as follows:

8. That one (1) sign shall be permitted on the parcel that shall not exceed 32 square feet in size, shall not exceed 6 feet in height and shall be setback from the road surface by a minimum of 35 feet or 10 feet farther than the road right-of-way, whichever is greater in conformance with Harford County Code Section 219-7(l), and further that the Applicant obtain any and all necessary permits and inspections for any sign erected pursuant to this Condition.

**Date: SEPTEMBER 13, 2002**

**William F. Casey  
Zoning Hearing Examiner**